

No. 87-1424

Supreme Court, U.S.

FILED

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JOSEPH F. SPANOL, JR.  
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In The  
**Supreme Court of the United States**

October Term, 1987

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE BOARD OF ELECTIONS,

*Petitioner,*

v.

WILLIE B. KILGORE, DORIS McCONNELL,  
PATSY BURCHETT, KATHERINE JONES  
McCLELLAND, FAYE OWENS, ROGER ADAMS,  
EVELYN BACON, PHILLIP CHEEK,  
the COUNTY OF LEE, VIRGINIA, the  
COUNTY OF SCOTT, VIRGINIA, the  
REPUBLIC INSURANCE COMPANY and the  
COMPASS INSURANCE COMPANY,

*Respondents.*

**RESPONSE OF COMPASS INSURANCE  
COMPANY TO THE PETITION FOR A  
WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
FILED HEREIN BY COMMONWEALTH OF VIRGINIA**

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## QUESTIONS PRESENTED

Does the First Amendment's prohibition against political discharges from government employment apply where the evidence establishes that extreme political animosity and party antipathy may actually thwart the proper functioning of a small government office?

Should this Court certify to the Virginia Supreme Court a pure question of state law where the Court of Appeals' interpretation of that state law is clearly wrong and is disrupting well-settled state/local government relationships?

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**JURISDICTION**

The order of the court of appeals denying plaintiffs'/  
appellees' petition for rehearing and suggestion for re-  
hearing en banc was entered on November 19, 1987. (Pe-  
tition of Commonwealth, A-25). This Court has jurisdic-  
tion pursuant to 28 U.S.C. § 1254(1).

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## **CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED**

The pertinent constitutional provisions and the state statutes at issue here are reproduced as Appendix D at A-70 of the appendix to the petition filed herein by the Commonwealth of Virginia.

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## **STATEMENT OF THE CASE**

The Commonwealth of Virginia has filed herein a petition for a writ of certiorari, and Compass Insurance Company, respondent to that petition, adopts the statement of the case as set forth in the petition filed by the Commonwealth of Virginia.

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## **REASONS FOR GRANTING THE WRIT**

### **I. THE COURT OF APPEALS' REFUSAL TO CONSIDER WHETHER POLITICAL ANIMOS- ITY MAY JUSTIFY A PATRONAGE RELATED DISCHARGE FROM GOVERNMENT IGNORES THE DEVELOPING LAW AND CREATES IN- CONSISTENCY AMONG THE CIRCUITS ON THIS ISSUE.**

Pursuant to Rule 19.6 of the Rules of the United States Supreme Court, respondent Compass Insurance Company states that it supports the position of petitioner Commonwealth of Virginia and adopts the arguments

set forth in the petition for certiorari filed herein by the Commonwealth of Virginia.

**II. THE COURT OF APPEALS' HOLDING IN THIS CASE THAT LOCAL ELECTION OFFICIALS ARE STATE EMPLOYEES HAS CREATED A NOVEL AND UNSUPPORTED EXCEPTION TO STATE LAW, AND IS DISRUPTING WELL-SETTLED STATE/LOCAL GOVERNMENT RELATIONSHIPS.**

Pursuant to Rule 19.6 of the Rules of the United States Supreme Court, respondent Compass Insurance Company states that it supports the position of petitioner Commonwealth of Virginia, and adopts the arguments set forth in the petition for certiorari filed herein by the Commonwealth of Virginia. Specifically, respondent Compass Insurance Company joins in the request of petitioner Commonwealth of Virginia that this Court vacate the order of the court of appeals and remand this issue back to that court with instructions to certify the state/local employment question to the Virginia Supreme Court.

**CONCLUSION**

For the foregoing reasons, the petition for writ of certiorari of the Commonwealth of Virginia should be granted.

Respectfully submitted,  
COMPASS INSURANCE  
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